

**DEPARTMENT OF THE TREASURY
Customs Service**

Modification of National Customs Automation Program Test Regarding Reconciliation

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: On February 6, 1998 and August 18, 1998, general notice documents were published in the **Federal Register** regarding the Customs Automated Commercial System (ACS) Reconciliation Prototype test. These documents announced, explained, and modified the prototype test. This notice serves to notify interested parties of two additional modifications to the prototype. The first allows downward adjustments on Aggregate Reconciliations, subject to certain conditions, and the second authorizes the use of a midpoint interest calculation method for Aggregate Reconciliations. All other aspects of the prototype remain the same.

EFFECTIVE DATES: The prototype testing period started on October 1, 1998. It will run for approximately two years from that date and may be extended. Applications to participate in the prototype will be accepted throughout the duration of the prototype. The effective date for use of the downward adjustment reporting option for Aggregate Reconciliations is [insert the date of publication of this document in the **Federal Register**]. Prototype participants may use that option for Aggregate Reconciliations filed on or after that date. The effective date for use of the midpoint interest calculation method is July 25, 1999. Prototype participants will use that method for Aggregate Reconciliations filed on or after that date.

ADDRESS: Written inquiries regarding participation in the prototype test should be addressed to Ms. Shari McCann, Reconciliation Team, U.S. Customs Service, 1300 Pennsylvania Ave. N.W., Mailstop 5.2A, Washington, DC, 20229-0001.

FOR FURTHER INFORMATION CONTACT: Mr. Don Luther at (202) 927-0915 or Ms. Shari McCann at (202) 927-1106.

SUPPLEMENTARY INFORMATION:

Background

Reconciliation is the process which allows an importer, at the time of entry summary, to identify undeterminable information (other than that affecting admissibility) to Customs and provide that outstanding information at a later date. Reconciliation, a planned component of the National Customs Automation Program (NCAP), as provided for in Title VI (Subtitle B) of the [North American Free Trade Agreement Implementation Act](#) (the NAFTA Implementation Act; Pub. L. 103-182, 107 Stat. 2057 (December 8, 1993)), is currently being tested by Customs under the Customs Automated Commercial System (ACS) Prototype test.

Customs announced and explained the ACS Prototype test of reconciliation in a general notice document published in the **Federal Register** (63 FR 6257) on February 6, 1998. A notice published in the **Federal Register** (63 FR 44303) on August 18, 1998, announced clarifications and operational changes. This notice modifies the test by providing a downward adjustment option and a midpoint interest calculation method for Aggregate Reconciliations. Except for these particular modifications, all other aspects of the test remain the same.

The downward adjustment modification is an enhancement to the prototype test. The midpoint interest modification is authorized under the Miscellaneous Trade and Technical Corrections Act of 1999 (Pub. L. 106-36 (June 25, 1999)), which amended [19 U.S.C. §1505\(c\)](#) (see section further below pertaining to the midpoint interest calculation method). Prototype participants should note that these modifications have different effective dates (see "Effective Dates" section) and both apply only to Aggregate Reconciliations. The Entry-by-Entry Reconciliation aspect of the prototype remains unchanged.

Aggregate Reconciliation for Decrease in Duties, Taxes, and Fees

As set forth in the **Federal Register** notice published on February 6, 1998 (63 FR 6257), there are two

types of Reconciliations that may be filed:

(1) Entry-by-Entry Reconciliations, where adjustments for duties, taxes, and fees are shown for every entry being reconciled. Such Reconciliations may be used to report increases, decreases, or no change to the duties, taxes, and fees determined on the underlying entry summary (ies); and

(2) Aggregate Reconciliations for reporting absolute increases in duties, taxes, and fees, where reconciled adjustments are shown on an aggregate basis, rather than on an entry-by-entry basis.

The same **Federal Register** notice (63 FR 6257) described the term "absolute increase" to encompass only entry summaries that result in either an increase or no change in duties, taxes, and fees. Thus, prior to publication of this notice, only increases and no changes have been eligible for Aggregate Reconciliations.

In this notice, Customs announces an enhancement to the Aggregate Reconciliation option that has the effect of altering this limitation. Upon publication of this notice, participants in the prototype may now also use the Aggregate Reconciliation to report changes resulting in a decrease in duties, taxes, and fees (referred to as downward adjustments), provided that the participant waives any claim for a refund (of duties, taxes, and fees) and releases Customs from any such liability.

While upward and downward adjustments will be allowed on a single Aggregate Reconciliation, they will be reported in separate sections of the line item data spreadsheet. Importers and other interested parties must be aware that the prohibition against netting remains in effect: decreases may NOT be netted against increases. For example, if a given product has two value issues, one resulting in an increase in value (and corresponding duties) and one resulting in a decrease in value (and corresponding duties), these two adjustments may not be offset against each other and reported as one line on the spreadsheet. They must be reported in separate sections of the spreadsheet, the increase adjustment as an increase for which additional duties will be tendered upon filing the Reconciliation and the downward adjustment as a decrease for which a refund is waived.

Downward adjustments, while reported on the spreadsheet, will not be reported on the Aggregate Reconciliation Header File in ACS. The Header File will be prepared without regard to decrease items, reflecting only increases in duties, taxes, and fees. In the event there are only decreases on the Aggregate Reconciliation, the Header File will be prepared as if the Reconciliation resulted in no change in duties, taxes, and fees.

Aggregate Reconciliations showing a decrease in duties, taxes, and fees will be liquidated as appropriate but without refund or reduction in duties, taxes, and fees otherwise due, since participants waive all claims for refunds due to downward adjustments.

The following certification must be included in the line item data spreadsheet of all Aggregate Reconciliations that report decreases. It contains the waiver, the release from liability, and a pledge that the changes reported do not reflect netting:

The tariff items shown below are items for which the reconciliation adjustment resulted in a decrease in duties, taxes, and/or fees. On this Aggregate Reconciliation, we hereby declare these changes and acknowledge that we waive any claims for a refund of any monies due us as a result of these changes, release Customs of any liability for the refund, and certify that the changes shown below are not included elsewhere in the Reconciliation or netted against increases.

This certification must appear immediately before the listing of tariff items for which decreases are reported. It will separate the sections of the data spreadsheet, with absolute increases listed above and decreases listed below (see sample spreadsheet further below, showing increases, decreases, and the required certification).

The downward adjustment modification described above serves only to add another voluntary option for importers participating in the prototype test. It does not remove any other options. Importers wishing to obtain refunds for monies due them pursuant to reconciled information (downward adjustments that result in monies owed to the importer) may still do so via the Entry-by-Entry Reconciliation method.

Sample Spreadsheet

Below is an example of an Aggregate Reconciliation spreadsheet where increases and decreases are reported in separate sections. The downward adjustments are reported but not calculated in the Reconciliation Adjustment.

Midpoint Interest Calculation for Aggregate Reconciliations

Section 1505(c) of Title 19, United States Code, provides for the accrual of interest on underpayments

and excess deposits applicable to ordinary entries and Reconciliations ([19 U.S.C. §1505\(c\)](#)). Under the statute, interest accrues for underpayments of duties, fees, and interest from the date the importer of record is required to deposit estimated duties, fees, and interest to the date of liquidation or reliquidation of the entry or Reconciliation. Interest accrues on excess deposits from the date the importer of record deposits estimated duties, fees, and interest to the date of liquidation or reliquidation of the entry or Reconciliation. Thus, under the prototype test, interest accrues on all Reconciliations where monetary adjustments take place, whether the adjustments are increases (Entry-by-Entry or Aggregate Reconciliations) or decreases (Entry-by-Entry Reconciliations) in duties, taxes, and fees. If interest is due to Customs, the filer will pay the interest, along with duties, taxes, and fees, upon filing the Reconciliation.

The previously mentioned **Federal Register** notice of August 18, 1998 (63 FR 44303) indicated that Customs was seeking a statutory amendment to 19 U.S.C. 1505(c) to authorize use of an alternative midpoint interest calculation method, an alternative to the entry-by-entry interest calculation method described in the previous paragraph. On June 25, 1999, the Miscellaneous Trade and Technical Corrections Act of 1999 was signed into law (the Act) (Pub. L. 106-36, 113 Stat. 127 (June 25, 1999)). Under section 2418(e) of the Act (Title II, Subtitle B), section 1505(c) was amended to authorize, for purposes of the prototype test, an alternative midpoint interest calculation method based upon aggregate data. This amendment predicates this modification of the prototype test.

Under the midpoint interest calculation method, interest is calculated on the entire amount of adjusted duties, taxes, and fees as if they had been due on the midpoint date of the period covered by the Reconciliation. For example, if an Aggregate Reconciliation covers January 1, 1999, through December 31, 1999, and results in \$20,000 in increased revenue due to Customs, the interest would be calculated on that amount from the midpoint date of July 1, 1999. Interest would accrue from the midpoint date until the date the Reconciliation is filed with payment. The midpoint interest method will be used for Aggregate Reconciliations filed on or after July 25, 1999. Such Aggregate Reconciliations may cover underlying entries filed during the period from October 1, 1998, through October 1, 2000, or the end of the prototype, whichever occurs first.

Prototype participants are reminded that they have the option of filing either an Aggregate Reconciliation or an Entry-by-Entry Reconciliation. As above, the midpoint interest calculation method will be used for Aggregate Reconciliations, and the entry-by-entry interest calculation method will be used for Entry-by-Entry Reconciliations. Under the entry-by-entry method, interest is calculated based on the monetary changes and dates associated with each underlying entry summary.

Prototype participants also are reminded that where a refund is claimed (on Entry-by-Entry Reconciliations), no interest calculations are required of the filer. Customs will calculate the interest due on the refund using the entry-by-entry method of calculation. For NAFTA Reconciliations, interest runs from the date the Reconciliation is filed until the date the Reconciliation is liquidated by Customs.

Conclusion

Regarding the prototype test generally, interested parties should consult the **Federal Register** notices of February 6, 1998 (63 FR 6257) and August 18, 1998 (63 FR 44303). All terms and conditions set forth in those notices remain in effect, except as specifically modified by this notice.

Dated: July 16, 1999

Assistant Commissioner,
Office of Field Operations

Charles W. Winwood